

REMARKS

Applicant requests entry of this Amendment and reconsideration of the rejection of the claims. Claims 1-42 are currently pending. The Examiner provisionally rejects claims 9 and 14-19 under 35 U.S.C. § 101 as claiming the same invention as that of claims 1, 14, 17-19, 21 and 25 of co-pending application no. 10/350,478. The Examiner also provisionally rejects claims 1-42 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of co-pending application no. 10/350,478 in view of U.S. Patent Application Pub. No. 2004/0209849 A1 (Fisher); Ponec, *N. Engl. J. Med.* 341: 137-141 (1999); and U.S. Patent No. 5,561,165 (Lautt et al.). Applicant has expressly abandoned Application Serial No. 10/350,478, and encloses herein a copy of the Patent Office's Notice of Abandonment for Application Serial No. 10/350,478, mailed on March 21, 2006. Therefore, Applicant respectfully submits that these rejections are now moot.


In view of the foregoing, Applicant respectfully requests withdrawal of the rejections.

SUMMARY

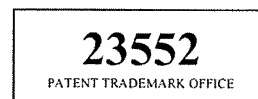
Applicant respectfully submits the claims are now in condition for allowance. Applicant requests notification to that effect. The Examiner is invited to contact Applicant's representative if prosecution maybe assisted.

Respectfully submitted,
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Date: April 28, 2006



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/350,478	01/24/2003	Wilfred Wayne Lautt	14217.3USU1	3226
23552	7590	03/21/2006		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER GEMBEH, SHIRLEY V	
			ART UNIT 1614	PAPER NUMBER

BRD

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Abandoned
01

Notice of Abandonment

Application No.

10/350,478

Applicant(s)

LAUTT, WILFRED WAYNE

Examiner

Shirley V. Gembeh

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☒ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


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SUPERVISORY

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.